IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

WP(C).No. 24357 of 2007(Y)

PETITIONER:

T.C.MUHAMMED BASHEER, THAYATTUCHIRA
VEEDU, AMMAYIPALAM, S.BATHERY.

BY ADV. SRI.P.N.PURUSHOTHAMA KAIMAL
SMT.V.SHYLAJA

RESPONDENTS:

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1. S.BATHERY GRAMA PANCHAYATH
REP. BY ITS SECRETARY,
SULTHAN BATHERY, WAYANAD.

2. STATE OF KERALA, REPRESENTED BY ITS
SECRETARY, LOCAL SELF GOVT.SECRETARIAT,
THIRUVANANTHAPURAM.

R2 BY ADV. SRI. K.J. MOHAMMED ANZAR, GOVT. PLEADER.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/09/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC : 24357 OF 2007

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE LICENCE OF THE PETITIONER DATED 19.05.2007.

EXT.P2 : TRUE COPY OF THE NOTICE OF THE INAGURATION DATED 18.07.2000.

EXT.P3 : TRUE COPY OF THE NOTICE ISSUED BY POLLUTION CONTROL BOARD TO THE 1ST RESPONDENT DATED 18.06.07.

EXT.P4 : TRUE COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER DATD 25.07.07.

/TRUE COPY/

PA TO JUDGE

PIUS C. KURIAKOSE, J.

W.P.(C) No. 24357 OF 2007

Dated this the 10th day of September, 2007

JUDGMENT

In this writ Petition under Article 226, the petitioner, who is a meat vendor within the area of the 1st respondent Grama Panchayat, prays that a direction be issued to the Panchayat to "allot" a slaughtering house in Manikuni market to the meat vendors in the market immediately.

2. The immediate provocation for filing the Writ Petition seems to be Ext.P4 order which was issued by the Panchayat to him on the basis of the general notice of the Chairman, Pollution Control Board No.PCB/H.O/T.A.M.S/20/2005 Dt.18.06.2007 directing the petitioner to stop sale of meat in his stall. Even though notice was served on the Panchayat by Special Messenger, the Panchayat has not entered appearance before this Court to resist the prayers in the Writ Petition. Thus the averments in the Writ Petition stands virtually established by non-traverse. I am at a loss to understand why the Panchayat is not coming forward to refute the allegations in the Writ Petition which inter alia are to the effect that a slaughtering house which was inagurated way back in 18.07.2000 has not been made functional till date.

In view of the position that the averments are not controverted, this Writ Petition will stand disposed of issuing the following directions:

1. To Ext.P4, the petitioner will file objection to the Panchayat within 7 days from today. If the petitioner files objections within the aforementioned time, the Panchayat will hear the petitioner on those objections and also the various grounds raised by him in this Writ Petition and then only finalise Ext.P4 by issuance of proceedings under intimation to the petitioner. Till such time as proceedings are so issued, coercive action for compelling the closure of the petitioner's shop will not be taken by the Panchayat.

2. The Panchayat will inform the petitioner in writing within two weeks of the petitioner placing a copy of this judgment before the Panchayat as to why the Panchayat is not permitting slaughtering of animals in the slaughtering house which is seen inagurated as per Ext.P2 notice.

PIUS C. KURIAKOSE, JUDGE

btt